

REMARKS

Claims 1-17, 24, 26-31, 37-48, 50, and 61-63 are pending in the present application. Applicants' attorney recently had a conversation with the Examiner regarding the long dormancy of this case and both Applicants and their attorney sincerely appreciate the Examiner's efforts in this regard. Applicants further appreciate the indication of allowance of claims 1-17, 37-47, 50, 62, and 63. Applicants have amended claims 24 and 48. Reexamination and reconsideration of all of the claims are respectfully requested.

Comment Regarding 35 U.S.C. §154(b)

The present case has a lengthy approximate 3 year time difference between the last Office Action, dated February 28, 2001, the subsequent Response filed on May 29, 2001, and the current May 18, 2005 Office Action.

Briefly, Applicant mistakenly filed a Request for Continued Examination and a responsive Amendment on May 29, 2001 in response to a First Office Action dated February 28, 2001. In response to this errant Request for Continued Examination, on June 25, 2001, the Office generated a Form PTO-2051 (Rev. 3/2001) having Box 3 checked, indicating that the RCE was improper, but "[i]f the RCE was accompanied by a reply to a non-final Office action, the reply will be considered under 37 C.F.R. 1.111." Applicants subsequently awaited consideration of the reply filed in accordance with the statement in the PTO-2051 and awaited a responsive Office Action or Notice of Allowance.

On or about September 5, 2002, Applicants' attorney spoke with Examiner Steve Kasay of the Patent Office who indicated that the case was considered abandoned by the PTO. Applicants did not receive a Notice of Abandonment of the case. Applicants subsequently petitioned to revive the application and requested withdrawal of the holding of abandonment of the application based on the foregoing circumstances and particularly in view of the statement in the PTO-2051 form.

Applicants' Petition was granted on February 7, 2003 as paper 22 of the current application file. In granting the Petition to withdraw the holding of abandonment, the SPE stated "The application file is being forwarded to the examiner for prompt appropriate action, including consideration of the amendment filed on June 1, 2001."

Applicants sent two Status Inquiries dated November 20, 2003 and September 15, 2004, but received no response and no further Office Action until calling Examiner Rosenberger, who subsequently generated the May 18, 2005 Office Action.

The present case was filed on November 18, 1998. 35 U.S.C. §154(A) states, in pertinent part:

Subject to the limitations under paragraph (2)¹, if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to—

...(ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;

...the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.

Applicants respectfully submit that based on 35 U.S.C. §154, the responsive Reply filed June 1, 2001 required an "action" from the Office before October 1, 2001. Applicants engaged in reasonable efforts to conclude prosecution of the application — Applicants awaited a Response based on the PTO-2051 statement, did not receive a

¹ Paragraph (2) states that (a) adjustment cannot exceed the actual number of days the patent was delayed; (b) adjustment cannot adjust beyond the time of any terminal disclaimer filed; and (c) The period of adjustment of the term of a patent under paragraph (1) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application, including time in excess of 3 months to respond to any notice from the Office.

Notice of Abandonment, contacted the PTO after a period of time had passed, and sent status inquiries to the PTO after the holding of the Petition. Applicants respectfully submit that the delay incurred in this case dates from four months after the expected reply, specifically October 1, 2001, through the date of the recent response, May 18, 2005, a time period of 1325 days. Applicants therefore submit that pursuant to 35 U.S.C. §154, once the current application matures into a patent, the patent term must be extended by 1325 days.

35 U.S.C. § 112

The Office Action takes issue with certain claim terminology that was present in the original application but was not specifically spelled out in the specification. Applicants have added wording to the specification to address any issue presented in this regard, and submit that the additions to the specification do not form new matter.

35 U.S.C. § 103

The Office Action rejected claims 24 and 48 based on Rosenfeld et al., U.S. Patent 3,885,875 (“Rosenfeld”) in view of Hercher, U.S. Patent 5,812,266 (“Hercher”) and further in view of Pryor et al, U.S. Patent 5,164,579 (“Pryor”). The Office Action rejected certain dependent claims in view of these references.

Applicants continue to contend that the combination of Rosenfeld, Hercher and Pryor constitutes an improper attempt to pick and choose certain verbiage from disclosures using hindsight, which is impermissible. Applicants also continue to contend that there is no motivation in Rosenfeld, Hercher, and/or Pryor to combine the references in the manner suggested, and thus combination of the references in the manner suggested is also improper.

Nonetheless, due to the extended pendency of the present application and the indication of allowability of claims 1 and 37 and claims dependent therefrom, Applicants have amended claims 24 and 48 in a manner similar to claims 1 and 37 to recite method or apparatus limitations corresponding to “weighting elements corresponding to each of

said plurality of linearly oriented sensing elements, wherein each of said weighting elements alters an electrical characteristic of said corresponding sensing element based on a distance of said sensing element from a predetermined point on said multi-element device.” The Office Action had relied on Pryor for the aspects related to weighting elements and altering of electrical characteristics. The “centroid” computation of Pryor materially differs from the structure and method claimed. In particular, Pryor does not show altering an electrical characteristic of a sensing element based on a distance of the sensing element from a predetermined point on the multi-element device. Thus independent claims 24 and 48 include limitations neither disclosed nor suggested by the cited references, either alone or in combination,

Applicants therefore submit that claims 24 and 48 are allowable over the cited references as they include elements not present in the cited references. Claims dependent from claims 24 and 48 are allowable as they include elements not present in the cited references.

Accordingly, it is respectfully submitted that all pending claims fully comply with 35 U.S.C. § 103.

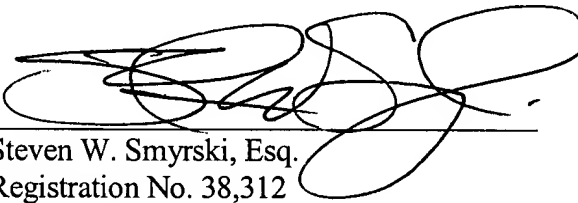
CONCLUSION

In view of the foregoing, it is respectfully submitted that all claims of the present application are in condition for allowance. Reconsideration and reexamination of all of the claims is respectfully requested and allowance of all pending claims at an early date is solicited.

Applicants believe that no fees are due in accordance with this Amendment beyond those included herewith. Should any additional fees be due, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Account 502026.

Respectfully submitted,

Date: August 17, 2005


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